

S.B.Cr.Misc. Bail App. No. 4450/2007
(Bheru Lal Vs. State of Rajasthan)

Date of order : 24/09/2007

HON'BLE MR.H.R.PANWAR, J.

Mr. M.L.Bishnoi for the petitioner.

Mr. Ashok Upadhyay, Public Prosecutor.

Heard learned counsel for the petitioner and the Public Prosecutor for the State. Perused the order impugned and challan papers.

It is contended by learned counsel for the petitioner that initially the police received a secret information that accused Narayanlal and Rameshwarlal are transporting opium on a motor cycle. The police arranged a Nakabandi. By seeing the police party, the motor cyclists left the motor cycle and ran away. In the statement of Heeralal who was member of the raiding party stated that Narayanlal was the person who was riding the motor cycle and the person pillion rider behind him threw a packet containing opium. In the instant case, after investigation, the police found two persons namely accused Narayanlal who was driving the motor cycle and Banshilal pillion rider sitting behind accused Narayanlal. It is contended by learned counsel for the petitioner that Banshilal has been released on bail by Co-ordinate Bench of this Court vide order dated 3.8.2007 and the case of the present petitioner is on better footing. The allegation against the present petitioner is that the co-accused Banshilal who has been released on bail, stated that he brought the opium from him. Except

that there is no allegation and since the person who was found in possession of the opium has been granted bail and therefore, the petitioner also deserves the bail.

Learned public prosecutor submits that so far as the present petitioner is concerned, nothing has been recovered from him. He further submits that two persons were found on the motorcycle and by seeing the police party, left the motor cycle and ran away, one of which threw the packet. Narayanlal was identified by witness Heeralal.

Be that as it may, the case of the present petitioner at any rate is on better footing than that of Banshilal who has been released on bail by Co-ordinate Bench of this Court.

In the circumstances, therefore, looking to the facts and circumstances of the case and having considered the oral arguments advanced by both the parties, I think it just and proper to enlarge the accused petitioner on bail.

Accordingly, this bail application filed under Sec. 439 Cr.P.C. is allowed and it is directed that petitioner Bherulal S/o Mangilal be released on bail in FIR No.230/2005 P.S. Gangrar, provided he executes a personal bond for a sum of Rs.20,000/- with two sound and solvent sureties in the sum of Rs. 10,000/- each to the satisfaction of learned trial court for his appearance before that court on each and every date of hearing and whenever called upon to do so till the completion of the trial.

(H.R.PANWAR), J.

RP